

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5472

IN THE MATTER OF:

Served November 30, 1998

Application to Transfer Certificate) Case No. AP-98-38
No. 310 from HUNTEMANN AMBULANCE)
SERVICE, INCORPORATED, to LIFESTAR)
RESPONSE OF MARYLAND, INC.)

By application accepted for filing September 1, 1998, Huntemann Ambulance Service, Incorporated, WMATC Carrier No. 310, ("Huntemann"), and LifeStar Response of Maryland, Inc., a New York corporation, ("LifeStar"), (collectively applicants), seek Commission approval to transfer a substantial part of Huntemann's assets, including Certificate No. 310, to LifeStar.

LifeStar and Huntemann have entered into an asset purchase agreement, pursuant to which LifeStar will acquire substantially all of the assets of Huntemann, including Certificate No. 310. Applicants also have entered into an operating agreement, pursuant to which LifeStar will manage Huntemann's operations until such time as full regulatory approval of the asset purchase is obtained. Once approval is obtained, LifeStar will commence operations in its own name in accordance with the asset purchase agreement.

Under Article XI, Section 11(a), and Article XII, Section 3, Subsections (a)(ii) and (c), of the Compact, the Commission may approve the transfer of assets from a WMATC carrier to another carrier, including a WMATC certificate of authority, if the Commission finds the transfer to be in the public interest. Similarly, under Article XII, Section 3, Subsections (a)(ii) and (c), the Commission may approve the contract of one carrier to operate a substantial part of the property or franchise of another carrier if the contract is consistent with the public interest.

The public interest analysis focuses on the acquiring party's fitness, the resulting competitive balance and the interests of affected employees.¹ Competition is not an issue where, as here, transferee has no preexisting operations in the Metropolitan District and is unaffiliated with any WMATC carrier.²

LifeStar filed a balance sheet as of April 30, 1998, showing assets of \$10,483,000; liabilities of \$6,667,000; and equity of \$3,816,000. LifeStar's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$100,000; expenses of \$93,680; and net profit of \$6,320.

¹ DC Code Ann. § 1-2414 (1992); In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd. & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

² In re Rainbow Luxury Lines, Inc., & Rainbow Bus Co., No. AP-97-21, Order No. 5091 (June 2, 1997).

LifeStar certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Upon the Commission's approval of the asset purchase agreement, LifeStar proposes to file Huntemann's current tariff as its own and commence operations with three wheelchair vans.

Once the transfer has been completed, LifeStar will, at its discretion, offer employment to Huntemann's employees. There is no indication in the record that Huntemann's employees object to this procedure. In the meantime, Huntemann will retain all employees while being operated by LifeStar.

Based on the evidence in the record, the Commission finds that the transfer of assets, including Certificate No. 310, from Huntemann to LifeStar, and the operation of Huntemann's assets by LifeStar pending completion of the transfer, are consistent with the public interest.

THEREFORE, IT IS ORDERED:

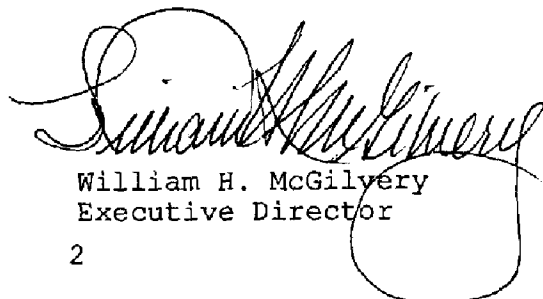
1. That upon LifeStar's timely compliance with the requirements of this order, Certificate of Authority No. 310 shall be reissued to LifeStar Response of Maryland, Inc., 11200 Scaggsville Road, Laurel, MD 20723.

2. That LifeStar may operate Huntemann's assets until such time as Certificate of Authority No. 310 has been reissued in accordance with the preceding paragraph.

3. That LifeStar is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That upon LifeStar's failure to timely satisfy the conditions of reissuance prescribed herein, the approval of transfer herein shall be void, the application shall stand denied, and LifeStar shall cease operating Huntemann's assets.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:


William H. McGilvery
Executive Director